

Implementation of Civil Procedural Law E-litigation in Justice System in Indonesia (Study in District Court in North Sumatra Region)

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Abstract

The background of this research is because The Supreme Court has made a breakthrough in the Law administration of Cases in the Court Electronically (Online) by issuing Supreme Court Regulation (PERMA) Number 1 of 2019 concerning the Administration of Cases and Trials in The Court Electronically. The results of the research, the electronic trial system (e-Litigation) experienced many obstacles, especially in the district court area which is categorized, Blankspot area so that the trial process is not normal for example, the trial schedule that has been set in the e-Court can be known and cannot be known because of internet network interference such as in the Sibuhuan District Court area, Padang Lawas Regency, North Sumatra Province. This view was also affirmed by Abdullah Husain, an Advocate from Peradi Medan who had filed a case in the area. As a result, the Advocate had to contact the Substitute Registrar for the trial schedule to be reviewed because the internet network was problematic. In addition, people in the area prefer conventional (face-to-face) trials that have been carried out for decades on the basis of the law Rechtsreglemen buitengewesten (Rbg). The solution to this problem, the judges will generally question the litigants, whether the trial is electronic or not. The judge always gives views on this e-Court to the litigants in the courtroom, and if approved by all parties, news of the approval of the e-Litigation trial is made. The same obstacles are also experienced by the Simalungun/Pematangsiantar District Court, Padangsidempuan, Tebing Tinggi, Lubuk Pakam and Medan District Court. According to the e-Court Corner officer of the Medan District Court, Gunawan, in the Medan District Court there is very rare internet network disruption unless pln istic flow dies. Advocates take a better view with e-Litigation because the process is easier, faster, light and simple costs in accordance with Article 2 paragraph (4) of Law No. 48 of 2009 on Judicial Power. Of course also, also to avoid games by the judicial mafia. In addition, in the midst of the Covid-19 Pandemic condition is not over, PERMA No. 1 of 2019 will also help the parties not to flock to the conference. PERMA is strongly responded by advocates in Indonesia, especially in North Sumatra.

Keyword: *E-litigation, Civil Event Law and Advocate.*

INTRODUCTION

The State of Indonesia is a State of Law, this is regulated in article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, affirmation The contents of this constitution mean that all aspects of life in society, state and government must be based on law (Asmadi, et.al, 2021). The work programs and policies of the Supreme Court in 2018 are mostly directed at the use of technology, especially information technology in the implementation of judicial tasks. Starting in early 2018, when the Case Investigation Information System (SIPP) version 3.2.0 application was successfully implemented in all courts of first instance, this application became a means of control for the case settlement process and as a means of information for justice seekers about the extent of the progress of the ongoing case. walk.

The Supreme Court has launched the e-Court application, an application that is able to facilitate the implementation of case registration, down-payment of court fees, summons to court, response and response processes, conclusions and notification of decisions/stipulations, which can be done electronically, on July 13, 2018. This is Among other things, it can bridge the geographical constraints of Indonesia's vast territory and is in the form of an archipelago (Ali, 2009).

This breakthrough in the field of civil procedural law from manual to digital is of course motivated by the Act No. 48 of 2009 stated in Article 2 paragraph (4), namely that the judiciary should be carried out in a simple, fast and low-cost manner. What is meant by simple is an event that is clear, easy to understand and not complicated. The fewer and simpler the formalities required or required in court proceedings, the better. Too many formalities that are difficult to understand or regulations that are dubious, allowing for various interpretations to arise, not guaranteeing legal certainty and causing a reluctance or fear to go to court.

The word speed refers to the course of justice. Too much formality is an obstacle to the running of the judiciary. It is not uncommon for a case to be delayed for years because witnesses do not come or the parties take turns not coming or asking to withdraw. Then the speed of the judiciary will increase the authority of the court and increase public trust. For a light fee, of course, so that it is borne by the people.

This is confirmed in Article 2 paragraph (4) of the Act No. 48 of 2009, which states that, "*trials are carried out simply, quickly, and at low cost*". Based on the explanation of Article 2 paragraph (4) of Law no. 48 of 2009 concerning Judicial Power, what is meant simply is that the examination and settlement of cases is carried out in an efficient and effective manner. A simple trial should not be deliberately complicated by the judge leading to a convoluted examination process until the examination "continues backwards" for various reasons that are not legally valid.

The issuance of Supreme Court Regulation (PERMA) Number 3 of 2018 so that the administration of justice is carried out in a fast, simple and low-cost event through an electronic trial called e-court. E-court is a court instrument as a form of service to the community in terms of online case registration, online payments, sending trial documents (replicas, duplicates, conclusions, answers) and online summons. The case e-court application

is expected to be able to improve services in its function of accepting case registrations online where the public will save time and costs when registering cases.

However, after being evaluated by the Supreme Court Regulation (PERMA), the Supreme Court of the Republic of Indonesia (MARI) revised it by issuing PERMA Number 1 of 2019 concerning the Administration of Cases and Trials in Electronic Courts. The thing that was revised was to regulate E-Litigation (electronic court). E-Litigation in short is a trial conducted electronically by minimizing the parties to face-to-face litigation and the litigation process of the District Court and the Religious Courts. The goal is to realize the principle of a simple, fast and low cost trial. All processes or stages of civil procedural law, from uploading the Power of Attorney to the final decision, can be seen in the e-Court for litigants. Except, proving procedures such as written evidence and witnesses who must meet face to face in court.

E-litigation is one of the 4 (four) features possessed by the Supreme Court (MA) as an integral part of the main program called e-Court (Electronic Court). However, the thing that needs to be underlined, based on the Supreme Court Decree Number 129/KMA/SK/VIII/2019, not all cases in the Court can be carried out by e-litigation. This provision still applies in a limited manner, such as handling cases with the classification of ordinary claims (agreement of the parties and approved by the judge at trial), Simple Lawsuits and Applications (volunteers), as well as lawsuits in Industrial Relations Dispute Settlement (Medan District Court). Specifically, a voluntary application or lawsuit is a civil matter submitted in the form of an application signed by the applicant or his/her proxy addressed to the Head of the District Court. (Harahap, 2005).

E-litigation trials have been in effect in all District Courts, Religious Courts and State Administrative Courts since January 2, 2020. From July 2018 to June 2020, the Supreme Court recorded that there were around 33,840 advocates registered in the E-Court and E-Litigation systems, but the number of lawyers verified or have gone through a process of checking a number of requirements as many as 31,465 advocates as official users of the system in 30 (thirty) High Courts throughout Indonesia. While the number of cases until June 2020 was recorded as 18,935 electronic cases.

According to Syamsul Maarif, the Supreme Court Justice of MARI acknowledged that the implementation of the electronic trial was still in stages according to the substance capacity of PERMA as a solution to procedural law reform available. In fact, there are still many stakeholders who do not understand the operationalization of PERMA Number 1 of 2019. In general, the case administration process still uses the conventional system with adjustments to the electronic system. Since not all judicial processes can be digitized, only some less critical aspects are streamlined through automation.

Another weakness is that the E-litigation procedure does not have a fixed procedure, there is no standard infrastructure model, the readiness of Human Resources (HR), the current regulations still rely on the principle of *consensualism* (agreement of the parties) in the use of litigation procedures. This means that there is no explicit compulsion for the parties to use this electronic trial procedure. So, the effectiveness of e-litigation has not been optimal, especially for the jurisdiction of the North Sumatra District Court. Based on the explanation above, this

research was conducted to see how the implementation of e-litigation in civil procedural law in the jurisdiction of the District Court in the North Sumatra Region.

RESEARCH METHOD

Research method is an attempt to find, develop and test the truth of a knowledge where the effort is carried out using the scientific method (Sutrisno, 2013). This method is carried out by normative juridical legal research, namely legal research using library materials or secondary data sources (Ediwarman, 2016). Normative juridical research is research that is used to examine the application of legal rules or norms (Koto & Lubis, 2020). Meanwhile, Marzuki said legal research is a process to find the rule of law, legal principles, and legal doctrines in order to answer the legal issues faced (MarzukiPeter Mahmud, 2014). The type of research used in this writing is library research. Furthermore, data analysis which is qualitative in nature is used. While the data analysis method used is descriptive analytical, namely the data analysis used is a qualitative analysis of secondary data. Qualitative data in this case is in the form of words so that the research report will contain data excerpts to provide an overview of the presentation derived from interviews, namely judges in the Sibuhuan District Court, Legal Corner Staff of the Medan District Court, Lubuk Pakam Court.

DISCUSS AND ANALYSIS

Trial of Civil Events with Electronic

Starting in August-November 2015, the Supreme Court of the Republic of Indonesia held a 2015 judicial public service innovation competition. The innovation competition is one of the efforts of the Supreme Court of the Republic of Indonesia to appreciate and encourage a culture of innovation in the judiciary in order to create a better quality of public service. As it is known that courts throughout Indonesia have started to carry out service initiatives or innovations, such as online case registration, online call assistance delegation, SMS gateway, complaint hotline, and so on.

For the Supreme Court, the spirit of innovation must be maintained and supported because it is in line with the mandate of Article 4 paragraph 2 of Law Number 48 of 2009 concerning Judicial Power that courts assist justice seekers and try to overcome all obstacles and obstacles in order to achieve a simple, fast and cost-effective trial. light. The competition with the theme "innovation to serve" has a specific purpose to foster public service innovation in courts in accordance with the demands and developments of community needs, foster a spirit of renewal and creativity in public services in courts, contribute to the improvement and improvement of the quality of public trust in law enforcement agencies, as well as encouraging the process of improvement and learning of the service system in the courts.

Another important parameter to consider in this competition is the standard of judicial service and the decree of the head of the supreme court number 026/2012 concerning the standard of judicial service and the decree of the supreme court of justice numbered 1-144/2011 concerning guidelines for information services in court. This competition is open to courts of first instance throughout Indonesia. From a series of verification, assessment and judging of 238 court work units and 444 innovation products, three of the best innovations were determined, namely:

1. Audio to Text Recording (ATR) developed by PA Kepanjen. This innovation is an application that can transform voice recordings (audio) into writing (text). Using Google applications/features, early innovation is claimed to be very cost-effective and functionally greatly relieves the burden of replacement clerks from writing manuals to automatic ones.
2. Calculating the down-payment of the case itself (e-SKUM) which was developed by the Pekanbaru District Court. This application-based innovation makes it easier for case registrants to calculate the down-payment of court fees, on the other hand increasing the efficiency and transparency of the cutting process.
3. Tanggamus Mobile Court (TMC) developed by the Tanggamus Religious Court. This innovation is a mobile service in the form of a mobile court service car in the jurisdictions on a weekly basis to villages, and having an office all day in the villages visited. Make it easier for people to get access to justice.

After going through a feasibility analysis and innovation development, replication of e-SKUM and ATR phase I has been carried out in 15 pilot courts (letter of the chairman of the Supreme Court of the Republic of Indonesia No. 077/TA-A2/MA/VI/2016 dated 24 June 2016 regarding pilot court in the context of implementing judicial service innovations).

Openness (transparency) emerged as a separate paradigm, or in other words, became the unstoppable spirit of the era (geist). One thing that should be, that public services that start from the principles of transparency, accountability, and contain the principles of simplicity, certainty of time, accuracy, security, ease of access, and as such will be very difficult to implement in daily tasks without adopting IT advancements and use it in application.

In line with the spirit of the Supreme Court of the Republic of Indonesia along with the 4 judicial circles under it, always improving excellent public services using the principle of information technology as a support is an effort of transparency in order to increase public trust in the Supreme Court of the Republic of Indonesia. Based on this consideration, the Supreme Court gave birth to an electronic justice system by issuing Supreme Court Regulation (Perma) No. 3 of 2018 concerning Electronic Court Case Administration. This is known as e-court which means a series of processes for accepting claims/applications, answers, replicas, duplicates and conclusions, management, submission and storage of documents for civil/religious/military/state administration cases using the electronic system applicable in Indonesia. each court environment. The e-court application is expected to improve online litigation services and justice seekers. The scope of the e-court application is as follows:

1. Online case registration in the e-court application is currently only open for registration for lawsuits and will continue to grow. Registration of lawsuits in court is the type of case that is registered in general courts, religious courts and state administrative courts whose registration requires more effort or effort, and this is the reason for creating an e-court, one of which is the ease of doing business such as saving time. and fees, payments can be made in multi-channel channels or from various payment methods and banks, documents are archived and can be accessed from various locations and media.
2. The down-payment of lawsuits is conventionally known as a Power of Attorney to Pay (SKUM), where the plaintiff goes directly to the cashier to pay the down-payment of court fees, a lawsuit and a power of attorney are attached, but now the e-SKUM system has applied for case payments. This e-SKUM application is a web-based application, an

application that is installed on a server and accessed using a web browser or known as a browser via an internet network, so that the parties know from the start how much the down payment fee must be paid so as to create efficiency and transparency in court fees. In addition to making it easier for the public to register and pay for civil claims, this innovation can also help civil servants in court in providing services.

3. Court documents. The e-court application also supports the sending of court documents such as answers, replicas, duplicates, conclusions electronically that can be accessed by the court and the parties..
4. Electronic Summons (e-Summons) in accordance with Perma Number 3 of 2018 that summons whose registration is carried out using an e-court, then summons to registered users is carried out electronically sent to the electronic domicile address of the registrant user. However, for the defendant, for the first summons to be made manually and when the defendant is present at the first trial, approval will be asked whether he agrees to be summoned electronically or not. agree that the call is done manually as usual (Mahkamah Agung, 2018).

The Supreme Court did not stop here, another breakthrough was made by revoking Supreme Court Regulation No. 3 of 2018 and issued Supreme Court Regulation No. 1 of 2019 concerning Electronic Case Administration and Court Trials. One of the breakthroughs is to create an e-Litigation application, namely the Electronic Trial with the understanding of a series of processes for examining and adjudicating cases by courts carried out with the support of information and communication technology..

A new product with the entire litigation process has been carried out with e-Litigation January 2020. All answers, replicas, duplicates and conclusions that exchange documents have also been carried out electronically, except in the trial of evidence and witnesses, conventional events are still carried out, the parties have written evidence and witnesses must be present. Even the judge's decision has been made electronically.

During the research at the Sibuhuan District Court, 32 cases have been registered electronically, at the Medan District Court for the period 2018-1 December 2021, 3,591 cases, the Padangsidempuan District Court 152 cases, and the Lubuk Pakam District Court. According to Zaldi Darmawan Putra, S.H, the Judge of the Sibuhuan District Court explained to the researcher that the Sibuhuan District Court was the result of the expansion of the Padangsidempuan District Court's jurisdiction in 2018. At that time, Supreme Court Regulation No. 3 of 2018 cannot be enforced because there are still limited electronic administrative support facilities in court. Of course, this requires budget support so that the electronic administration program can be implemented.

In line with the Supreme Court program, the Sibuhuan District Court has prepared a budget and conducted a socialization program regarding the implementation of Supreme Court regulations specifically Supreme Court Regulation no. 3 of 2018 and Supreme Court Regulation No. 1 of 2019 to Advocates and the people of Sibuhuan, Padang Lawas Regency. As a result, it is not satisfactory for the courts, the public and advocates when it comes to participating in the implementation of e-litigation. Dissatisfaction, of course, there are several factors related to the internet network in the legal area of the Sibuhuan District Court because there are still blankspot areas so that it will interfere with electronic trials in civil lawsuits. In addition, the disruption to the flow of electricity from PLN also affects it and there are people

who do not want an electronic trial. The community feels more fitting to meet face to face with the opposing party in the case.

The same opinion was expressed by Donna Siregar, S.H, an advocate in Sibuhuan, Padang Lawas Regency. According to him, the internet signal in Sibuhuan is one of the inhibiting factors for the implementation of the electronic trial. In fact, the Sibuhuan District Court has also taken strategic steps so that justice seekers can be achieved. This is a record of the Regional Government of Padang Lawas Regency so that other operators can be added so that electronic trial constraints can be minimized. However, the Sibuhuan District Court has properly implemented the Supreme Court's regulations.

At the Lubuk Pakam District Court, Deli Serdang Regency has also carried out an electronic trial and has been running since 2019 until now. Obstacles encountered when there is a problematic internet network, but this is not uncommon. This also happened in the Medan District Court. Specifically for the Medan District Court, according to the staff of the e-Court Corner, Gunawan. According to him, during the electronic trial, almost all advocates did not file complaints with the system. The complaints he often receives are young advocates who have just started their trial in court. They generally ask how to advocate as an e-Court user, starting from registration as an advocate, power of attorney, answering the parties' claims, how to upload data to storing data on a CD to be given at the end of the trial.

Technological sophistication has compelled advocates to master IT, especially in the field of settling civil cases in courts where the e-court system is now being implemented. It is undeniable that the e-court system has not been categorized as perfect in its implementation, so that advocates who have been registered in the membership data of advocate organizations who are sworn in annually by advocates in high courts and receive a copy of the minutes of oath with a issuance number by the high court must perform re-enrollment by re-registering in the e-court system.

The IT problem was also acknowledged by Abdullah Husain, S.H., M.H, an advocate from IKADIN Medan. According to him, at the beginning of the enactment of the Supreme Court Regulation No. 3 of 2018 is a bit stuttering with the administrative system and electronic cases. For example, an Advocate must register as a separate account holder. Without registration of an advocate as a user, when you are going to file a civil lawsuit, you will experience problems because as a plaintiff you have to upload a special power of attorney and a civil lawsuit on the e-Court at the Medan District Court..

PERMA, which has been running for two years, has brought ease of trial in court with the principle of a simple procedure, low cost and fast in accordance with Article 2 paragraph 4 of the Act No. 48 of 2009. It's just that the question is whether the judge's decision that is shared in the electronic system is legal or not. The problem is that in every decision there is always the sentence "This is how this decision is pronounced in a public open trial...". Meanwhile, the decision is only contained in the e-Court data.

The Director General of Badilum of the Supreme Court stated that the use of e-Court services in case administration is basically based on the willingness of both parties to the case. That is, it is not required to fully use the online system but can be done manually. If one of the litigants refuses to use the e-court service, the case will be heard using the usual procedure. PERMA requires the consent of the parties to use the e-Court system or not.

However, if it is seen from the existence of e-Summons as one part of the e-Court regulated in PERMA in the view of the statutory regulations, it actually contradicts the regulation of legal and proper summons according to the provisions of HIR and Rbg. In addition, MARI must also consider other laws and regulations that are still a guide in civil case proceedings in court, such as HIR (Het Herziene Indonesicsh Reglement) / RBg (Rechtsreglement Buitengewesten); Rv (Reglement op de Burgerlijke Rechtsvordering); Bw (Burgerlijk Wetboek) Book IV on Evidence and Expiration; the Act No. 48 of 2009, the Act No. 3 of 2009, the Act No. 5 of 2004, the Act No. 14 of 1985, the Act No. 49 of 2009, the Act No. 8 of 2004, the Act No. 2 of 1986 concerning General Courts (Sunarto, 2014).

CLOSURE

Clonclusion

The process of resolving civil disputes with the electronic system is a breakthrough by the Supreme Court by issuing PERMA No. 1 of 2019. However, there are still various weaknesses, such as internet network interference or blackspot areas. This will have an impact on the trial schedule that has been set online so that it will be detrimental to the litigants. Status of civil procedural law with HIR (Het Herziene Indonesicsh Reglement)/Rbg (Rechtsreglement Buitengewestenz), and Rv (Reglement op de Burgerlijke Rechtsvordering); is still valid in the examination of evidence and witnesses as long as there is no regulation that revokes it because the applicable provisions have not been declared revoked.

Suggestion

The judicial system with e-litigation, especially in the jurisdiction of the North Sumatra District Court, must be carried out with several considerations, such as e-summons, which can be done by e-Court after there is an agreement or agreement between the parties or their proxies at the first trial. Once agreed, the judge will make an official report regarding the schedule for the next trial, starting from the answer to the verdict. All stages of this schedule have been determined and entered into the e-court.

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